

Service Appeal No.5700/2021 titled "Noor Ul Habib Vs. Police Department" and Service Appeal No.5725/2021 titled "Israr Ali Vs. Police Department"

ORDER

18th July. 2024

Kalim Arshad Khan, Chairman: Through this single order, the above two appeals, are jointly taken up, as both are similar in nature and almost with the same contentions, therefore, can be conveniently decided together

2. Learned counsel for the appellants present. Mr. Muhammad-Jan, District Attorney for the respondents present. Heard.

3. Appellants' cases in brief, as per averments of appeals, are that they were serving as Senior Clerks in the Police Department; that vide seniority list of Senior Clerks stood on 30.06.2021 issued on 21.10.2020, alleged junior colleagues of the appellants were placed senior to them; feeling aggrieved, they filed departmental appeals but the same were not responded, hence, the instant service appeals.

4. Arguments heard. Record perused.

5. The services of the appellants and private respondents are governed by the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. There is no denial to the fact that the private respondents were senior to the appellants in service but they were promoted as Senior Clerks after the date of promotion of the appellants. The contention of the appellants is that since they were promoted much prior to the date of promotion of private respondents and that they were deferred from promotion, therefore, they could not be placed senior to the



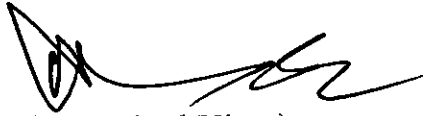
appellants, is misconceived as deferment is not a punishment and once a civil servant, who is deferred and then promoted, has to be given seniority under the Provisions of Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Relevant portion of the same is Explanation-II which is reproduced below in which the bold and highlighted portion is worth seeing:

*“If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; **provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incompleteness of record or for any other reason not attributing to his fault or demerit.**”*

6. In view of the above, instant service appeals are have no force and are dismissed with costs. Copy of this order be placed on file of connected file. Consign.

7. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 18th day of July, 2024.*


(Rashida Bano)
Member (J)


(Kalim Arshad Khan)
Chairman

Mutazem Shah